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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA**

In re:

MARC JOHN RANDAZZA,

Debtor.

EXCELSIOR MEDIA CORP., a Nevada  
corporation; and LIBERTY MEDIA  
HOLDINGS, LLC, a Nevada limited liability  
company,

Plaintiffs,

v.

MARC JOHN RANDAZZA, an individual,

Defendant.

AND RELATED COUNTERCLAIMS.

Case No.: BK-S-15-14956-abl  
Chapter 11

Adv. No. 15-01193-abl

**SUPPLEMENTAL REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT OF  
OPPOSITION TO MOTION FOR  
ORDER CONFIRMING INTERIM  
ARBITRATION AWARD**

Date: April 18, 2017  
Time: 1:30 p.m.

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Defendant, Marc John Randazza (the “Defendant”), hereby respectfully requests that the Court take judicial notice pursuant to Fed. R. Evid. 201 of the following facts in support of his *Opposition to Motion for Order Confirming Interim Arbitration Award* (the “Motion”) [ECF No. 125], and such matters as may be filed in the above-referenced adversary proceeding:

1. Liberty California was an entity affiliated with Excelsior, however, it was cancelled effective December 31, 2016. Attached hereto as Exhibit 1 and Exhibit 2 are true and correct copies of the Secretary of State printouts from Nevada and California.

2. Plaintiff Liberty Nevada was organized on January 4, 2016, and thus did not exist during Defendant’s employment with Excelsior; it did not even exist at the time the Original Complaint in this Adversary Proceeding was filed on November 30, 2015. Attached hereto as Exhibit 3 a true and correct copy of the Nevada Secretary of State printout.

3. In 2011, MJRPA (including by its other attorneys) successfully represented Mr. Wayne Hoehn, among various other defendants, in litigation brought by Righthaven, a well-known “copyright troll,”<sup>1</sup> arising from these defendants’ fair use of copyrighted materials. Attached hereto as Exhibit 5 a true and correct copies of *Righthaven LLC v. Hoehn*, 792 F. Supp. 2d 1138, 1151 (D. Nev. 2011), vacated in part by *Righthaven LLC v. Hoehn*, 716 F.3d 1166, 1168 (9th Cir. 2013).

4. Plaintiffs dishonestly alleged that the Defendant was awarded \$55,000 in a suit against Righthaven filed on behalf of a third-party client, see SAC ¶¶ 93-97, when in fact it is clear that it was his law firm, MJRPA, which law firm had numerous attorneys in addition to the Defendant, who was awarded the compensation. Plaintiffs at no time had legal or equitable right or title to the earned fees awarded to MJRPA. The \$55,000 was a distribution for administrative expenses by the Righthaven receiver imposed by the court. Defendant represented various defendants who were defending litigation brought by Righthaven, not a plaintiff. Those defendants were neither competitors of Plaintiffs nor were they targets of Plaintiffs’ litigation strategy, and such representation in no way conflicted with any duties of Defendant to Plaintiffs. To the contrary, such representation benefitted Excelsior. Defendant and MJRPA received much

<sup>1</sup> See <https://en.wikipedia.org/wiki/Righthaven>. Exhibit 4.

1 positive press for his work on the Righthaven litigation. See Wired Magazine, “Copyright Troll’s  
 2 Assets Targeted for Seizure” (Sept. 19, 2011), available at  
 3 <https://www.wired.com/2011/09/righthaven-assets-targeted/>, **Exhibit 6**. It is inexplicable how  
 4 the tremendous goodwill generated by MJRPA’s litigation against Righthaven could have  
 5 resulted in anything other than positive press by association for Defendant’s employer, Excelsior,  
 6 and MJRPA’s other clients, like Liberty California, as well.

7 5. Attached hereto as **Exhibit 7** and **Exhibit 8** are true and correct copies of  
 8 Righthaven, LLC v. Hoehn, 2:11-cv-00050 (D. Nev. Mar. 15, 2013) (report of receiver);  
 9 Righthaven, LLC v. Hoehn, 2:11-cv-00050 (D. Nev. Jun. 6, 2013) (order adopting report of  
 10 receiver).

11 6. During the course of his employment with Excelsior, the Defendant found himself  
 12 facing the same opposing counsel, notably Valentin Gurvits. Esq. (“Mr. Gurvits”) when MJRPA  
 13 represented Liberty California in litigation against TNAFlix and FF Magnat Ltd. d/b/a Oron.com  
 14 (“Oron”). See SAC ¶ 23 (Mr. Gurvits representing TNAFlix); attached hereto as **Exhibit 9** and  
 15 **Exhibit 10** are true and correct copies of *Liberty Media Holdings, LLC v. Youngtek Solutions,*  
 16 *Ltd. d/b/a TNAFlix.com*, No. 3:10-cv-01972, 2010 U.S. Dist. LEXIS 136525 (S.D. Cal. Dec. 27,  
 17 2010); and *Datatech Enters. LLC v. FF Magnat Ltd. d/b/a Oron.com*, No. 12-4500, 2013 WL  
 18 1007360 (N.D. Cal. Mar. 13, 2013) (Mr. Gurvits representing Oron).

19 7. On June 20, 2012, Liberty California, through MJRPA, filed suit against Oron for  
 20 copyright infringement (the “Oron Litigation”), in the United States District Court for the District  
 21 of Nevada, Case No. 2:12-cv-01057. Attached hereto as **Exhibit 11**.

22 8. MJRPA commenced the litigation very aggressively for Liberty California by  
 23 filing a series of motions on the very first day of the case seeking a temporary restraining order,  
 24 a preliminary injunction, a motion for seizure of funds, and a motion to appoint a receiver.  
 25 Attached hereto as **Exhibit 12**, **Exhibit 13**, and **Exhibit 14**.

26 9. On July 6, 2012, because of Oron’s recalcitrance, MJRPA filed a motion to enforce  
 27 the Oron Settlement and a motion for recovery of attorneys’ fees and costs then successfully  
 28 obtained an order enforcing the Oron Settlement on behalf of Liberty California. See SAC ¶ 52;

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1 and attached hereto as **Exhibit 15** and **Exhibit 16**.

2 10. On August 7, 2012, the District Court entered an order granting Liberty  
3 California's motion to enforce the Oron Settlement, and entered judgment in favor of Liberty  
4 California, and against Oron in the amount of \$550,000, and continuing to freeze Oron's accounts  
5 to satisfy any attorneys' fee award. Attached hereto as **Exhibit 17** and **Exhibit 18**.

6 11. That same day, MJRPA filed writs of execution of the foregoing judgment against  
7 Oron, and on August 10, 2012, also filed an emergency renewed motion for attorneys' fees and  
8 costs incurred. Attached hereto as **Exhibit 19**.

9 12. Defendant denies having made any material misrepresentations to the Court as  
10 alleged. Plaintiffs' entire theory is a semantic argument resting upon Defendant's use of the word  
11 "incurred" in the fee petition in the Oron Litigation. Attached hereto as **Exhibit 20** a true and  
12 correct copy of *FF Magnat Ltd. v. Liberty Media Holdings*, No. 12-16976 (9th Cir. Feb. 13, 2013).

13 13. On August 31, 2012, Liberty California, acting through new counsel, filed a  
14 motion to substitute attorneys to replace MJRPA, which was approved by order entered by the  
15 District Court on September 4, 2012. Attached hereto as **Exhibit 21** and **Exhibit 22**.

16 14. On September 4, 2012, the District Court also entered an order determining that  
17 the actual value of MJRPA and the Defendants' services in the Oron Litigation was \$131,797.50,  
18 and entered judgment thereon. Attached hereto as **Exhibit 23**.

19 15. On September 5, 2012, Oron appealed the District Court's decisions to the United  
20 States Court of Appeals for the Ninth Circuit, which appeal was dismissed about nine (9) months  
21 later on June 25, 2013. Attached hereto as **Exhibit 24**.

22 16. On June 26, 2013, which was the day after the Ninth Circuit dismissed Oron's  
23 appeal, Liberty California, acting through new counsel, filed what it called a motion for  
24 adjudication that attorney's charging lien is unenforceable and for declaratory order against  
25 MJRPA, and an emergency motion for disbursement of funds against MJRPA. Attached hereto  
26 as **Exhibit 25**.

27 17. On July 26, 2013, the District Court denied Liberty California's motions to  
28 adjudicate and render unenforceable MJRPA's charging lien, and also its motion to disburse funds

1 without payment to MJRPA. Attached hereto as **Exhibit 26**.

2 18. On December 9, 2012, as later amended, MJRPA filed an action against Liberty  
3 in the Eighth Judicial District Court, Clark County, Nevada, being Case No. A-12-673275-C,  
4 therein alleging claims for monies due for legal services rendered in the Oron Litigation (the “Fee  
5 Litigation”). Attached hereto as **Exhibit 27**.

6 19. On March 28, 2013, Liberty answered the amended complaint in the Fee  
7 Litigation, and filed a counterclaim against MJRPA alleging malpractice claims against MJRPA  
8 arising out its representation of Liberty in the Oron Litigation, which are similar to those asserted  
9 against Defendant in this Adversary Proceeding. Attached hereto as **Exhibit 28**.

10 20. On August 2, 2016, the parties filed a *Joint Stipulation and Order for Dismissal*  
11 *With Prejudice* in the Fee Litigation, which the Nevada State Court has entered, thereby  
12 confirming the complete effectuation of the MJRPA Settlement Agreement. Attached hereto as  
13 **Exhibit 29**.

14 21. Attached hereto as **Exhibit 30** is a true and correct copy of *Liberty Media Holdings*  
15 *LLC v. FF Magnat Limited*, Case No. 12-16976, Answering Brief of Appellee Liberty Media  
16 Holdings, LLC (9th Cir. Feb. 13, 2013).

17 Dated: April 10, 2017.

18 By: /s/ Matthew C. Zirzow  
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